

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|------------------------------|---|--------------------------------------|
| CHARLES LEE TEXTER, | : | CIVIL ACTION NO. 1:04-CV-0173 |
| | : | |
| Plaintiff | : | (CONSOLIDATED) |
| v. | : | |
| | : | (Judge Conner) |
| TODD MERLINA, et al., | : | |
| | : | |
| Defendants | : | |

ORDER

AND NOW, this 29th day of February, 2008, upon consideration of the trial exhibits submitted by plaintiff,¹ and it appearing that plaintiff has identified his own sworn statement as an exhibit (Ex. 4), and the court finding that the sworn statement is hearsay, see FED. R. EVID. 801, and that no exception to the rule excluding hearsay applies to the sworn statement, see id. 803-804, 807, it is hereby ORDERED that:

1. Plaintiff is precluded from offering the sworn statement (Ex. 4) at trial.
2. Plaintiff may only use his sworn statement to refresh his memory while he is testifying, but he may not read its contents to the jury.²

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ The order of court dated February 11, 2008 (Doc. 146) directed plaintiff to submit his trial exhibits by February 28, 2008.

² This ruling should not be construed as any indication of the court's view on the admissibility of the other trial exhibits submitted by plaintiff.